

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
ATLANTA BRANCH OFFICE

DOUBLE OAK FAMILY MEDICINE,
P.C.

and

CASE 10–CA–34648

KIMBERLY MAHAN, an Individual

John D. Doyle, Esq., for the General Counsel.
Jeffrey W. Bennitt, Esq., for Respondent.
Kimberly Mahan, Pro Se.

DECISION

Statement of the Case

LAWRENCE W. CULLEN, Administrative Law Judge. This case was heard before me on January 29, 2004. This is my decision in Double Oak Family Medicine, P.C. (herein “Family Medicine” or “the Respondent”), Case 10-CA-34648. The Complaint alleges Family Medicine issued written warnings and discharged employees Laurie Knauer and Kimberly Mahan because they engaged in protected concerted activities, and in order to discourage employees from engaging in protected concerted activities. The Complaint also alleges Family Medicine, through its Office Manager Yulondia Bonham, threatened employees with discharge in the event they associated with employees who had engaged in protected concerted activities and verbally instituted a rule that employees were prohibited, under the threat of discharge, from associating with or discussing employees who had engaged in protected concerted activities. It is alleged Family Medicine’s actions violate Section 8(a)(1) of the National Labor Relations Act (“the Act”). The Respondent has denied the commission of any violations of the Act.

On the entire record, including my observation of the demeanor of the witnesses, and after considering opening and closing statements by Counsel for the General Counsel (“General Counsel”) and Family Medicine, I make the following findings of fact and conclusions of law:

FACTS

Family Medicine is an Alabama Professional Corporation, with an office and place of business in Birmingham, Alabama, where it operates a medical clinic providing medical services to the public. During the 12 months preceding November 24, 2003, a representative period, Family Medicine derived gross revenues in excess of \$250,000 and purchased and received goods valued in excess of \$5,000 directly from suppliers outside the State of Alabama. Family Medicine admits, and I find, it has been, at all material times herein, an employer within the meaning of Section 2(2), (6) and (7) of the Act.

This case, as in most cases, requires credibility resolutions. In arriving at my credibility resolutions, I carefully observed the witnesses as they testified and I have utilized such in arriving at the facts herein. I have also considered each witnesses' testimony in relation to the other witnesses' testimony and in light of the exhibits presented herein. If there is any evidence that might seem to contradict the credited facts I have set forth, I have not ignored such evidence but rather have discredited or rejected it as not reliable or trustworthy.

Respondent, Family Medicine, operates a family medicine practice owned and staffed by Dr. Harvey S. Harmon and his wife Dr. Renee Brown Harmon. At the time of the incidents underlying the Complaint in this case, it was also staffed by one technician and several clerical and administrative employees, including Office Manager Yulondia Bonham, an admitted supervisor and agent of Respondent and employees Laurie Knauer and Kimberly Mahan, the two alleged discriminatees in this case and employees Jennifer Lee, Jennifer Wright, LeCretia Cook and Joan Dilmore. Jennifer Lee and Mahan were front office employees with less than a year's service with Respondent. Knauer was a technician in charge of the in-house lab and also had less than a year's service with Respondent. Wright, Cook, and Dilmore worked in the back of the office and were longer term employees. Bonham had her own office. There was friction between Knauer and Bonham which according to the testimony of Bonham had begun once Knauer had completed her six-month probationary program. According to the testimony of Dr. Harvey Harmon ("Dr. Harvey"), Knauer was a very capable technician who had done an excellent job in organizing the lab upon being hired as it had been in need of organization. However, Dr. Harvey testified that there was friction between Knauer and Bonham as Knauer refused to acknowledge that Bonham was her supervisor and wanted to be responsible directly to the doctor. Dr. Harvey testified that this friction had become open and he had shortly before the discharge of Knauer separated the two individuals who were loudly arguing in front of patients. Dr. Harvey also testified that Bonham was an excellent office manager who had been with him for several years and who had during the last year prior to the incidents in this case undergone several personal and health problems. Bonham was hospitalized the week prior to June 3, 2003, and was on a part-time basis thereafter as she recovered and was permitted to work at home during this period with substantial times when she was not in the office.

Bonham's absences gave rise to several problems such as patients receiving bills indicating their claims had not been paid by insurance companies, thus generating numerous telephone calls from the patients. This resulted in Lee and Mahan becoming overburdened as these calls were transferred to them and the employees in the back of the office did not assist

them. Additionally, Mahan had checked into and opened up one file on the computer and discovered that the payments by the insurance companies were not being posted to the patients' account and she testified that she suspected either incompetence or possible fraud on Bonham's part. Knauer testified she was also having problems as she was being required to submit requests for lab kits to Bonham for ordering and was not receiving the kits in time from suppliers who were informing her that they had not been paid for supplies previously furnished and who were threatening to refer the Respondent's account for collection.

During the week preceding June 3, Mahan asked Dr. Harvey if some of the employees could meet with him to discuss these problems. At the start of the meeting, Mahan and Knauer asked him if their jobs would be in jeopardy if they discussed these matters with him. The doctor assured them that their jobs would not be in jeopardy and met with them that evening after the close of the business day. Mahan, Knauer, and Lee met with the doctor and raised the aforesaid complaints with him. Dr. Harvey testified he assured these employees that he would look into the problems. The most serious concern was raised by Mahan which was that payments of insurance claims by insurance companies were not being posted to the patients' accounts which could have been fraudulent. He requested his accountant to investigate to see if there was any fraud involved on the part of Bonham. After some months of investigation, the accountant concluded that there was no evidence of fraud but that the postings had not been kept up to date. The doctor concluded that this was the result of Bonham's illness and absence from the job which had caused her to fall behind in her work. Similarly, the calls from unhappy patients were referred to Mahan and Lee who were the receptionists and who Bonham and the doctor testified were merely required to take the message and refer it to Bonham in her absence. The doctor and Bonham testified that the problems with the vendors were occasioned by ownership changes among the vendors, some of whom had merged or bought the others out and that the Respondent was not given credit for payments that had been made because of confusion generated by the change in the ownership status of the vendors. The doctor also testified that Knauer should have given her orders for the test kits and other supplies to Bonham in a timely manner as it was Bonham's job to check for the lowest costs when ordering from the vendors but that Knauer wanted to do the ordering herself and favor certain vendors she had used in the past at her previous employment.

At the time of the meeting held between employees Mahan, Knauer, and Lee with Dr. Harvey, Bonham was hospitalized. She subsequently learned of the meeting and that she had been criticized by the employees. Her response to learning of the meeting and the complaints against her was swift. On June 3rd when she returned to work in the office, she issued a written warning to Knauer as follows:

Written Warning

To: Laurie Knauer
Date: June 03, 2003
Re: Job Performance/Attitude

This is a written warning on inappropriate conduct/behavior and the inability to get along/work together with your coworkers in the office. Anything that affects this office should go through Yulondia R. Bonham. Don't discuss unrelated issues/dislikes with other members of the staff. Express your concern with other person involved. If no avail, bring it to them to the Office Manager.

Any billing issues or and other administration inquiries should be directed to me and leave it at that. Don't volunteer any information because I handle that department.

Another concern of DOFM is talking to patients with the consent of the doctors. I am advising you to **NOT** advise a patient of anything other than what's written in the chart and just leave it at that. If they have further questions or concern, take a call note and document their concerns and forward it to the assigned doctor. We noticed that the length of time patients are waiting for labs and you're taking your time doing so. The beginning of every week day is the busiest. Pull labs and charts should be place on next level of proprieties when we are having a busy day. We want you to assess the patients here waiting for lab and the room first. Once things cool down, then you follow through on paperwork.

Be polite and limit your phone conversation with patients and focus on the patients, clinical and clerical work to be completed within the office. If any conflicts/issues arise between you and a coworker, try to work it amongst yourself. If to no avail, bring your concerns to me **OFFICE MANAGER, YOUR MANAGER.**

If not signed and tuned [sic] in by the end of the day, it will be witness by Dr. Harmon and Yulondia R. Bonham.

Regards,

Yulondia R. Bonham, Manager

cc: Harvey S. Harmon, M.D.

Bonham also gathered employees Mahan and Lee together and threatened them with discharge if they associated with employees who had voiced their complaints to Dr. Harvey. Knauer spoke to the doctor and told him she disagreed with the warning. He said he would get back to her but did not do so. Bonham issued a second written warning to Knauer on June 9th as follows:

FINAL REQUEST

To: Laurie Knauer

From: Yulondia R. Bonham, Office Manager
Date: June 09, 2003
Subject: Attitude/conduct behavior and unsatisfactory job performance?

My job performance is not in any way unsatisfactory.

As of this date, I am placing you on 90 Days probation for these reasons. In our effort to have the facility flow smoothly, your job responsibilities are a NECESSITY. I have observed your inability to get along with coworkers and your attitude toward me. If you have any concerns, please feel free to discuss these issues with me.

This is your Final warning. Your teamwork effort with other coworkers, job performance and your attitude doesn't improve to my satisfactory [sic], You will be suspended and possibly terminated within this period (90 Days from today's date) Please sign this form and return it as soon as possible. If not return at the end of the date above, this will go as refusal to sign in your personnel file and other protocol as listed in your personnel handbook will be followed.

<u>/s/ Laurie Knauer</u> (Employee Signature)	<u>6/10/03</u> (Date)
<u>/s/ Yulondia R. Bonham</u> (Office Manager Signature)	<u>6/9/03</u> (Date)
<u></u> (Witness Signature)	<u></u> (Date)

On June 11th, Bonham called a meeting of employees into her office at the end of the day and gave them a revised list for all of the employees' telephone numbers at the office which did not include Knauer. She also had employee Lee tell Knauer to come to her (Bonham's) office at which time she handed Knauer a letter stating she was discharged as follows:

June 11, 2003

Laurie L. Knauer
670 Hwy 446
Columbiana, AL 35051

To: Laurie L. Knauer:

I will like to take this opportunity to express my sincere thanks for your service that you provided Double Oak Family Medicine during your tenure here.

Your tenure ship here has come to a [sic] end. We wish you good luck and prosperity in all future efforts. Again, thanks for your service in supporting the processing of performing multi task work environment at Double Oak Family Medicine.

Regards,

/s/ H. S. Harmon

Double Oak Family Medicine, P.C.

Bonham also told Knauer that she could not retrieve her personal belongings and must leave immediately or she would call the sheriff. The next day Knauer called Mahan and asked her to retrieve her personal belongings and to obtain a prescription renewal from Dr. Harvey. Mahan spoke to Dr. Harvey and asked if she would be subject to disciplinary action if she complied with Knauer's request in view of the threat issued by Bonham. He told her she would not be disciplined and agreed to call in the prescription for Knauer. In addition on June 12, Bonham verbally instituted a rule that employees were prohibited under threat of discharge from associating with or discussing employees who had participated in the meeting with Dr. Harvey. Subsequently on July 22, Bonham issued a written warning to Mahan for excessive absenteeism and tardiness and insisted that Mahan sign the warning which Mahan refused to do. Bonham told Mahan to think about it and to let her know the next day if she would sign the warning. When Mahan returned to work the next day, Bonham told her she was discharged and handed her a letter of discharge. The warning reads as follows:

Written Warning

To: Kimberly Mahan
Date: July 22, 2003
Re: Absentee and Failure to comply with office policy

This is a written warning failure to notify your supervisor of absentee, excessive tardiness and the inability to follow procedures as instructed in DOFM personnel handbook.

Since you refuse to sign the [sic] your evaluation form, we have concluded that you're not in agreement with the policy and procedure of DOFM.

If not signed and tuned [sic] in by the end of the day July 22, 2003 and it will be witness by either Dr. Harmons and Yulondia R. Bonham and will result in suspension and possibly termination.

Regards,

/s/ Yulondia R. Bonham
Yulondia R. Bonham, Manager

Employee refuse to sign 7/22/03 yb
Kimberly Mahan

/s/ H. S. Harmon MD
Harvey S. Harmon, M.D.

Analysis

I find that employees Mahan, Lee, and Knauer were engaged in protected concerted activities when they joined together and presented Dr. Harvey Harmon with concerns about their terms and conditions of employment as set out above with the goal of improving those terms and conditions of employment. I further find that Respondent, through its supervisor and agent Bonham, violated Section 8(a)(1) of the Act by the threat of discharge issued by Bonham to its employees in the event they associated with employees who had engaged in concerted activities for mutual aid and protection and by verbally instituting a rule prohibiting employees under threat of discharge from associating with or discussing employees who had engaged in concerted activities for mutual aid and protection. I further find that Respondent violated Section 8(a)(1) of the Act by the written warnings of June 3rd and 9th issued to employee Knauer and the discharge of Knauer on June 11. I further find that Respondent violated Section 8(a)(1) of the Act by the written warning issued to Mahan and the discharge of Mahan on July 22nd.

The Board in *Meyers Industries (Meyers I)*, 268 NLRB 493 (1984), remanded sub. nom. *Prill v. NLRB*, 755 F.2d 941 (D.C. Cir. 1985) noted that the concept of concerted action has its basis in Section 7 of the Act. Section 7 of the Act in pertinent part states:

Employees shall have the right to self-organization to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection.

The Board pointed out in *Meyers I* that although the legislative history of Section 7 of the Act does not specifically define concerted activity, it does reveal that Congress considered the concept in terms of individuals united in pursuit of a common goal. The Statute requires that the activities under consideration be “concerted” before they can be “protected.” As the Board observed in *Meyers I*, “Indeed, Section 7 does not use the term ‘protected concerted activities’ but only concerted activity.” It goes without saying that the Act does not protect all concerted activity. With the above, as well as other considerations in mind, the Board in *Meyers I* set forth the following definition of concerted activity:

In general, to find an employee’s activity to be ‘concerted,’ we shall require that it be engaged in with or on the authority of other employees, and not solely by and on behalf of the employee himself. Once the activity is found to be concerted an 8(a)(1) violation will be found if, in addition, the employer knew of the concerted nature of the employee’s activity, the concerted activity

was protected by the Act, and the adverse employment action at issue (e.g., discharge) was motivated by the employee's protected concerted activity.

In *Meyers Industries (Meyers II)*, 281 NLRB 882 (1986), enfd. sub. Nom. *Prill v. NLRB*, 835 F.2d 1481 (D.C. Cir. 1987), the Board made it clear that under the proper circumstance a single employee could engage in concerted activity within the meaning of Section 7 of the Act. The question of whether an employee has engaged in concerted activity is a factual one based on the totality of record evidence. See e.g. *Ewing v. NLRB*, 861 F.2d 353 (2d Cir. 1988). The Board has found an individual employee's activities to be concerted when they grew out of prior group activity. *Every Women's Place*, 282 NLRB 413 (1986). An employee's activity will be concerted when he or she acts formally or informally on behalf of the group. *Oakes Machine Corp.*, 288 NLRB 456 (1988). Concerted activity has been found where an individual solicits other employees to engage in concerted or group action even where such solicitations are rejected. *El Gran Combo de Puerto Rico*, 284 NLRB 1115 (1987), enfd. 853 F.2d 966 (1st Cir. 1988). The Board has long held, however, that for conversations between employees to be found protected concerted activity, they must look toward group activity and that mere "griping" is not protected. See *Mushroom Transportation Co. v. NLRB*, 330 F.2d 683 (3rd Cir. 1964).

In *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982); approved in *NLRB v. Transportation Management Corp.*, 462 U.S. 393 (1983), the Board set forth its causation test for cases alleging violations of the Act that turn, as does the case herein, on employer motivation. First the General Counsel must persuade the Board that antiunion sentiment was a substantial or motivating factor in the challenged employer conduct or decision. Once this is established the burden then shifts to the employer to prove its affirmative defense that it would have taken the same action even if its employee had not engaged in protected concerted activity. See *Manno Electric, Inc.*, 321 NLRB 278, fn. 12 (1996).

Counsel for the General Counsel must demonstrate by preponderant evidence (1) that the employee was engaged in protected concerted activity; (2) that the employer was aware of the activity; (3) that the activity or the workers' union affiliation was a substantial or motivating reason for the employer's action; and (4) there was a causal connection between the employer's animus and its discharge decision.

Counsel for General Counsel may meet the *Wright Line* burden with evidence short of direct evidence of motivation, i.e., inferential evidence arising from a variety of circumstances such as union animus, timing or pretext may sustain the General Counsel's burden. Furthermore, it may be found that where an employer's proffered non-discriminatory motivational explanation is false, even in the absence of direct evidence of motivation, the trier of fact may infer unlawful motivation. *Shattuck Denn Mining Corp. v. NLRB*, 362 F.2d 466, 470 (9th Cir. 1966); *Fluor Daniel, Inc.*, 304 NLRB 970 (1991). Motivation of union animus may be inferred from the record as a whole, where an employer's proffered explanation is implausible or a combination of factors circumstantially support such inference. *Union Tribune Co. v. NLRB*, 1 F.3d 486, 490-492 (7th Cir. 1993). Direct

evidence of union animus is not required to support such inference. *NLRB v. 50-White Freight Lines, Inc.*, 969 F.2d 401 (7th Cir. 1992).

Applying the above-discussed relevant case law to the facts of this case, I find the General Counsel has established each of the violations in the Complaint. With respect to the question of concerted activities, it is clear that Mahan, Knauer, and Lee were mutually engaged in concerted activities on behalf of each other to address problems with their working conditions and to seek a solution to the problems described above. Such concerted activities were protected under Section 7 of the Act. Consequently, Bonham's threat of discharge to employees in the event they associated with employees who had engaged in concerted activities was violative of Section 8(a)(1) of the Act. Bonham's institution of a verbal rule prohibiting employees under threat of discharge, from associating with or discussing employees who had engaged in concerted activities, was violative of Section 8(a)(1) of the Act. In each of these instances the fact that they occurred was admitted by Respondent. Respondent, through Bonham and Dr. Harvey Harmon, attempted at the hearing to justify the acts of Bonham but did not deny that they occurred as set out above. In each instance, Respondent's actions as carried out by Bonham interfered with Section 7 rights of the employees to engage in concerted activities for their mutual aid and protection.

With respect to the warnings and discharge of Knauer, I find that Counsel for General Counsel has established a prima facie case that Respondent, through Bonham, issued these warnings and discharged Knauer because of her engagement in protected concerted activities when she complained along with her fellow employees about their working conditions. As noted above, Bonham's retaliation upon her return to work the week of June 3rd was swift. Knauer had never been issued a written warning prior to this. I have considered the testimony of Bonham that Knauer directed racial slurs such as calling her by the "N" word and calling her a "black bitch." I credit this testimony but find that this had been going on for some time prior to the warnings and discharge and were not initially asserted by Bonham to have been the reasons for the warnings and discharge. I note also the testimony of Dr. Harvey Harmon that he was unaware of these occurrences. I also credit Knauer's testimony that Bonham had regularly yelled at her while she was at work. I find that the timing and the unlawful threat and institution of the unlawful rule constitutes substantial evidence of Respondent's unlawful retaliation against Knauer. I note also Dr. Harvey's support of the decision to discharge Knauer. I find that Respondent has failed to establish by the preponderance of evidence that it would have issued the warnings to Knauer and discharged her in the absence of her engagement in protected concerted activities. I credit Dr. Harvey's testimony that he was faced with the dilemma of dealing with Bonham and Knauer who were unable or unwilling to resolve their conflicts which were occurring in the presence of the patients and that he decided to terminate Knauer who had less service time than Bonham. However, I find that Respondent has failed to demonstrate that the actions taken against Knauer would have occurred in the absence of Knauer's engagement in protected concerted activities. *Wright Line*, supra.

I also find that Respondent's issuance of the warning for absenteeism and attendance to Mahan and its discharge of her for refusing to sign the warning violated the Act. There were no prior written warnings issued to Mahan. There was no reasonable explanation why

Bonham discharged her for refusing to sign the written warning and no practice established of having employees sign written warnings. I find rather that as in Knauer's case, Respondent through Bonham retaliated against Mahan for her engagement in protected concerted activities with her fellow employees to improve their working conditions as evidenced by the timing of the response by Bonham and the severity of the retaliation taken against Mahan. I find Respondent has failed to rebut the prima facie case and has failed to demonstrate it would have taken these actions against Mahan in the absence of her engagement in protected concerted activities. *Wright Line*, supra.

Conclusions of Law

1. Respondent is an employer within the meaning of Section 2(2), (6) and (7) of the Act.
2. Respondent violated Section 8(a)(1) of the Act by:
 - (a) Threatening its employees with discharge in the event they associated with employees who engaged in protected concerted activities.
 - (b) Instituting a verbal rule that employees were prohibited, under threat of discharge, from associating with or discussing employees who had engaged in concerted activities for mutual aid and protection.
 - (c) Issuing the June 3rd and June 9th, 2003 written warnings to employee Laurie Knauer.
 - (d) Discharging Laurie Knauer on June 11, 2003.
 - (e) Issuing a written warning to employee Kimberly Mahan on July 22, 2003.
 - (f) Discharging Kimberly Mahan on July 22, 2003.
3. The above unfair labor practices in conjunction with Respondent's status as an employer affect commerce within the meaning of Section 2(2), (6), and (7) of the Act.

The Remedy

Having found that Respondent has violated Section 8(a)(1) of the Act, it shall be ordered to cease and desist therefrom and to take certain affirmative actions designed to effectuate the policies of the Act.

Respondent, having discriminately discharged Laurie Knauer and Kimberly Mahan, shall be ordered to offer them reinstatement to their former positions, or, if those positions no longer exist, to substantially equivalent positions and make them whole for any loss of

earnings and benefits they sustained as a result of the unlawful discrimination against them less any net interim earnings, as prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), plus interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended:¹

ORDER

Respondent Double Oak Family Medicine, P.C., its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Threatening employees with discharge in the event they associate with employees who have engaged in concerted activities for mutual aid and protection.

(b) Instituting a rule prohibiting employees, under threat of discharge, from associating with or discussing employees who have engaged in concerted activities for mutual aid and protection.

(c) Unlawfully issuing written warnings and discharging employees because of their engagement in protected concerted activities and in order to discourage employees from engaging in protected concerted activities.

(d) In any like or related manner interfering with, restraining or coercing employees in the exercise of the rights guaranteed them under Section 7 of the Act.

2. Take the following affirmative actions:

(a) Rescind the verbal rule prohibiting employees under threat of discharge from associating with or discussing employees who have engaged in concerted activities for mutual aid and protection.

(b) Rescind the written warnings issued to employees Laurie Knauer and Kimberly Mahan.

(c) Rescind the discharges of employees Laurie Knauer and Kimberly Mahan.

(d) Within 14 days from the date of this Order, offer Laurie Knauer and Kimberly Mahan full reinstatement to their former jobs, or, if those jobs no longer exist, to substantially equivalent positions without prejudice to seniority or any other rights or

¹ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

privileges previously enjoyed. Make Laurie Knauer and Kimberly Mahan whole for any loss of earnings and other benefits suffered as a result of the discrimination against them in the manner set forth in The Remedy section of this decision.

(e) Within 14 days from the date of this Order, remove from its files any reference to the unlawful written warnings and discharges and within 3 days thereafter notify the employees in writing that this has been done and that the warnings and discharges will not be used against them in any way.

(f) Preserve and, within 14 days of a request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of the records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(g) Within 14 days after service by the Region, post at its Birmingham, Alabama, facility copies of the attached notice marked “Appendix.”² Copies of the notice, on forms provided by the Regional Director for Region 10, after being signed by the Respondent’s authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since May, 2003.

(h) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C.

Lawrence W. Cullen
Administrative Law Judge

² If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading “**POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD**” shall read “**POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD.**”

APPENDIX

NOTICE TO EMPLOYEES

**Posted by Order of the
National Labor Relations Board
An Agency of the United States Government**

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

WE WILL NOT threaten our employees with discharge in the event they associate with employees who engage in protected concerted activities.

WE WILL NOT institute verbal rules that prohibit employees from associating with or discussing employees who engage in concerted activities for mutual aid and protection.

WE WILL NOT issue written warnings to employees who engage in protected concerted activities.

WE WILL NOT discharge or otherwise discriminate against employees who engage in protected concerted activities.

WE WILL NOT in any like or related manner interfere with you in the exercise of your rights under the National Labor Relations Act.

WE WILL rescind the verbal rule prohibiting employees from associating with or discussing employees who engage in concerted activities for mutual aid and protection.

WE WILL rescind the unlawful warnings issued to and discharges of Laurie Knauer and Kimberly Mahan.

WE WILL offer Laurie Knauer and Kimberly Mahan reinstatement to their former jobs, or, if those jobs no longer exist, to substantially equivalent jobs without prejudice to their seniority or other rights previously enjoyed by them.

WE WILL make them whole in the manner set forth in The Remedy provisions of this Decision from the dates of their discharges until the date of a valid offer of employment or reinstatement.

WE WILL expunge from our files any reference to the unlawful warnings and discharges and notify them in writing that this has been done and that these personnel actions will not be used against them in any manner.

DOUBLE OAK FAMILY MEDICINE, P.C.

(Employer)

Dated _____ **By** _____
(Representative) **(Title)**

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov.

233 Peachtree Street NE, Harris Tower, Suite 1000, Atlanta, GA 30303-1531
(404) 331-2896, Hours: 8 a.m. to 4:30 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE.

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (404) 331-2877.